

IN RE: PETITION FOR ADMIN. VARIANCE  
SW/Corner White Way Road and  
Martha Avenue  
(3118 White Way Road)  
15th Election District  
7th Councilmanic District  
Gary A. Foulke, et ux  
Petitioners

\* BEFORE THE  
\* DEPUTY ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* Case No. 93-285-A  
\*

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Administrative Variance filed by the owners of the subject property, Gary A. and Donna M. Foulke. The Petitioners request relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory structure (swimming pool) in the side/front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1.

The Petitioners having filed a Petition for Administrative Variance and the subject property having been posted and there being no requests for public hearing, a decision shall be rendered based upon the documentation presented.

The Petitioners have filed the supporting affidavits as required by Section 26-127 (b)(1) of the Baltimore County Code. Based upon the information available, there is no evidence in the file to indicate that the requested variances would adversely affect the health, safety or general welfare of the public and should therefore be granted. In the opinion of the Deputy Zoning Commissioner, the information, pictures, and affidavits submitted provide sufficient facts that comply with the requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship

upon the Petitioners.

It should be noted that this property is located within the Chesapeake Bay Critical Areas and as such, is subject to any recommendations made by the Department of Environmental Protection and Resource Management (DEPRM) in order to comply with Critical Areas legislation. The relief granted herein is contingent upon Petitioners submitting a findings plan for review and approval by DEPRM within sixty (60) days of the date of this Order.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the B.C.Z.R. having been met, and for the reasons set forth above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 9th day of April, 1993 that the Petition for Administrative Variance requesting relief from Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory structure (swimming pool) in the side/front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) Compliance with any recommendations made by DEPRM upon completion of their review. The Petitioners shall submit a findings plan for review and approval by DEPRM within sixty (60) days of the date of this Order.

*Timothy M. Kotroco*  
TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TWK:bjs

- 2 -

Baltimore County Government  
Zoning Administration  
Office of Planning and Zoning



Suite 113 Courthouse  
400 Washington Avenue  
Towson, MD 21204

April 9, 1993

(410) 887-4386

Mr. & Mrs. Gary A. Foulke  
3118 White Way Road  
Baltimore, Maryland 21219

RE: PETITION FOR ADMINISTRATIVE VARIANCE  
SW/Corner White Way Road and Martha Avenue  
(3118 White Way Road)  
15th Election District - 7th Councilmanic District  
Gary A. Foulke, et ux - Petitioners  
Case No. 93-285-A

Dear Mr. & Mrs. Foulke:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Administrative Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration Office at 887-3391.

Very truly yours,

*Timothy M. Kotroco*

TIMOTHY M. KOTROCO  
Deputy Zoning Commissioner  
for Baltimore County

TWK:bjs

cc: Chesapeake Bay Critical Areas Commission  
45 Calvert Street, 2nd Floor, Annapolis, Md. 21401

DEPRM

People's Counsel

File

## Affidavit in support of Administrative Variance

The undersigned hereby affirms under the penalties of perjury to the Zoning Commissioner of Baltimore County, as follows:

That the information herein given is within the personal knowledge of the Affiant(s) and that Affiant(s) have competent to testify thereto in the event that a public hearing is scheduled in the future with regard thereto.

That the Affiant(s) does/do presently reside at 3118 Whiteway Rd.

Baltimore MD 21219  
City State Zip Code

That based upon personal knowledge, the following are the facts upon which I/we base the request for an Administrative Variance at the above address: (indicate hardship or practical difficulty)

We are asking your permission to retain a 24' round above ground pool located in the side yard of property and 3' are in the front yard. This pool was installed 4/72 and name: BE RETURNED

That Affiant(s) acknowledge(s) that if a protest is filed, Affiant(s) will be required to pay a reporting and advertising fee and may be required to provide additional information.

*Gary A. Foulke*  
GARY A. FOULKE  
Affiant

*Donna M. Foulke*  
DONNA M. FOULKE  
Affiant

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, this 24 day of Feb 1993, before me, a Notary Public of the State of Maryland, in and for the County aforesaid, personally appeared

*Gary A. Foulke and Donna M. Foulke*  
GARY A. FOULKE and DONNA M. FOULKE  
known to me and known to be the persons whose names are subscribed to the foregoing petition.

the Affiant(s) herein, personally known or satisfactorily identified to me as such Affiant(s), and made oath in due form of law that the matters and facts hereinbefore set forth are true and correct to the best of his/her/their knowledge and belief.

AS WITNESS my hand and Notarial Seal.

6/25/93

My Commission Expires: 6/1/94

### EXAMPLE 3 - Zoning Description - 3 copies

93-285-A

Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet.

ZONING DESCRIPTION FOR 3118 Whiteway Road  
Election District 15 Councilmanic District 7

Beginning at a point on the South side of MARTHA Avenue

(north, south, east or west) which is 25' (number of feet of right-of-way width)

wide at a distance of 0' West of the centerline of the nearest improved intersecting street (name of street)

(number of feet of right-of-way width)

Block C, Section # in the subdivision of

Lynch Point as recorded in Baltimore County Plat

Book # 8, Folio # 38, containing

6,750 sq. ft. (square feet and acres)

\*If your property is not recorded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision description as shown, instead state: "As recorded in Deed

Lib. # and include the measurements and directions (metes and bounds only) here and on the plat in the correct location.

Example of metes and bounds: N. 87° 12' 13" E. 321.1 ft., S. 18° 03' E. 87.2 ft., S. 62° 19' 00" W. 318 ft., and N. 08° 15' 22" W. 80 ft. to the place of beginning.

7

295

Baltimore County  
Zoning Administration &  
Development Management  
211 West Chesapeake Avenue  
Towson, Maryland 21204

93-285-A

receipt

Date

Number

1-2-11

RECEIVED

PUBLIC HEARING FEES

QTY

PRICE

ONLY ZONING MAPS (FEE) 1

ONLY ZONING SIGNS & ADVERTISING 1

03A03H032HJCRC

\$85.00

Please Make Checks Payable To: Baltimore County

BA 001136A03-02-93

Cashier Validation

DATE TIME OF DEPOSIT

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

93-285-A

District 15th

Date of Posting 3/20/93

Posted for:

Petitioner: Gary A. Foulke

Location of property: 3118 Whiteway Rd. Martha Ave

Location of Sign: 3118 Whiteway Rd. Martha Ave

Remarks:

Posted by: [Signature]

Date of return: 3/26/93

Number of Signs: 1



## Petition for Administrative Variance to the Zoning Commissioner of Baltimore County for the property located at 3118 Whiteway Road which is presently zoned R-2

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s) 400.1 to 400.1.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an existing accessory structure (swimming pool) in the side/front yard in lieu of the required rear yard, in accordance with Petitioner's Exhibit 1.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

See Back

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc. Upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Correct Purchase/lease

(Type or Print Name)

Signature

Address

City

State

Zip Code

Signature

Address

City

State

Zip Code

(We do not submit this petition and affirm under the penalties of perjury that we are the legal owner(s) of the property which is the subject of this petition.)

Gary A. Foulke

(Type or Print Name)

Signature

Donna M. Foulke

(Type or Print Name)

Signature

3118 Whiteway Rd.

W-633-1800-Donna

H-477-0046

Baltimore, MD 21219

City State Zip Code

Name Address and phone number of representative to be contacted

Name

Address

Phone No.

A Public Hearing having been requested and/or found to be required, it is ordered by the Zoning Commissioner of Baltimore County, this 19th day of 1993, that the subject matter of this petition be set for a public hearing, advertised as required by the Zoning Regulations of Baltimore County, in the Newspaper of General Circulation throughout Baltimore County, and that the property be posted.

Zoning Commissioner of Baltimore County

REVIEWED BY:

DATE:

ESTIMATED POSTING DATE:

ITEM #: 295

111 West Chesapeake Avenue  
Towson, MD 21204

March 24, 1993

(410) 887-3353

Mr. and Mrs. Gary A. Foulke  
3118 Whiteway Road  
Baltimore, MD 21219

RE: Case No. 93-285-A, Item No. 295  
Petitioner: Gary A. Foulke, et ux  
Petition for Administrative Variance

Dear Mr. and Mrs. Foulke:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on March 2, 1993, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.



Maryland Department of Transportation  
State Highway Administration

O. James Lighthizer  
Secretary  
Hal Kassoff  
Administrator

3-11-93

Ms. Julie Winiarski  
Zoning Administration and  
Development Management  
County Office Building  
Room 109  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: Baltimore County  
Item No.: \* 295 (CAM)

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Bob Small  
John Contestable, Chief  
Engineering Access Permits  
Division

My telephone number is 410-333-1350

Teletypewriter for Impaired Hearing or Speech  
383-7555 Baltimore Metro - 555-0451 D.C. Metro - 1-800-492-5082 Statewide Toll Free  
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director  
Zoning Administration and  
Development Management

DATE: March 18, 1993

FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning and Zoning has no comments on the following petition(s):  
Item Nos. 295, 296, 301, 303.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by: Jeffrey M. Long

Division Chief: [Signature]

PK/JL:lw

295.2AC/2AC1

Baltimore County Government  
Fire Department

700 East Joppa Road Suite 901  
Towson, MD 21286-5500

MARCH 24, 1993

(410) 887-4500

Arnold Jablon  
Director  
Zoning Administration and  
Development Management  
Baltimore County Office Building  
Towson, MD 21204

RE: Property Owner: GARY A. FOULKE AND DONNA K. FOULKE

Location: #3118 WHITEWAY ROAD

Item No.: \*295 (CAM) Zoning Agenda: MARCH 15, 1993

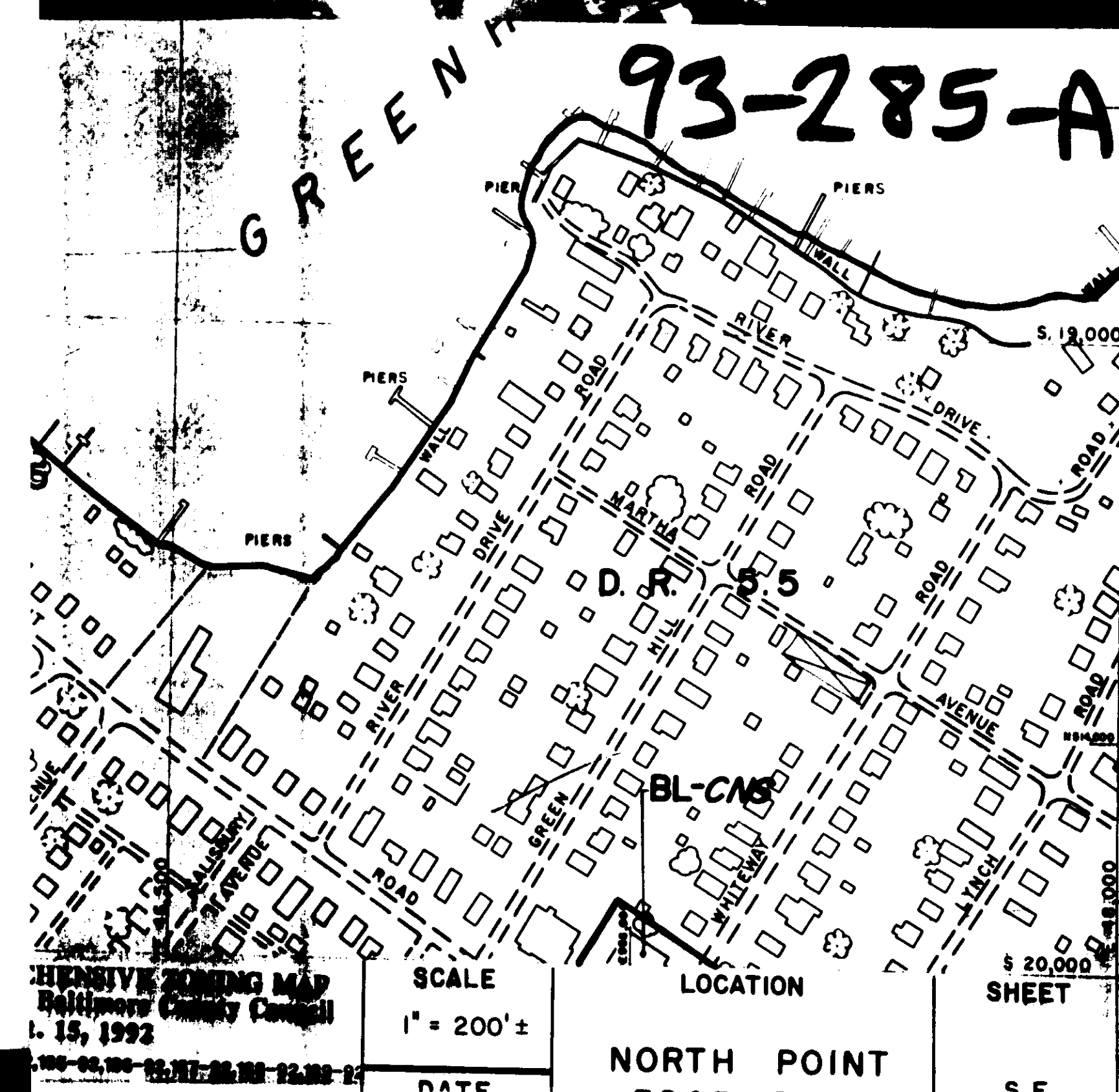
Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] Noted and Approved  
Planning Group Fire Prevention Bureau  
Special Inspection Division

JP/KEH



111 West Chesapeake Avenue  
Towson, MD 21204

Baltimore County Government  
Office of Zoning Administration  
and Development Management



March 11, 1993

(410) 887-3353

Gary A. Foulke and Donna K. Foulke  
3118 Whiteaway Road  
Baltimore, Maryland 21219

Re: CASE NUMBER: 93-295-A (Item 295)  
3118 Whiteaway Road and Martha Avenue  
3118 Whiteaway Road  
15th Election District - 7th Councilmanic

Dear Petitioner(s):

Please be advised that your petition for Administrative Zoning Variance has been assigned the above case number. Any contact made with this office should reference the case number. This letter also serves as a refresher regarding the administrative process.

1) Your property will be posted on or before March 21, 1993. The closing date (April 5, 1993) is the deadline for a neighbor to file a formal request for a public hearing. After the closing date, the file will be reviewed by the Zoning or Deputy Zoning Commissioner. At that time, an order will issue. This order may (a) grant the requested relief, (b) deny the requested relief, or (c) demand that the matter be set in for a public hearing. You will receive written notification as to whether or not your petition has been granted, denied, or will go to public hearing.

2) In cases requiring public hearing (whether due to a neighbor's formal request or by order of the Commissioner), the property will be reported and notice of the hearing will appear in a Baltimore County newspaper. Charges related to the reporting and newspaper advertising are payable by the petitioner(s).

3) Please be advised that you must return the sign and post to this office. They may be returned after the closing date. Failure to return the sign and post will result in a \$50.00 charge.

PLEASE UNDERSTAND THAT ON THE DATE AFTER THE POSTING PERIOD, THE PROCESS IS NOT COMPLETE. THE FILE MUST GO THROUGH FINAL REVIEW AND THE DECISION MAKING PROCESS. WHEN THE ORDER IS READY IT WILL BE FORWARDED TO YOU VIA FIRST CLASS MAIL. ORDERS ARE NOT AVAILABLE FOR DISTRIBUTION PRIOR TO BEING MAILED TO YOU.

Arnold Jablon  
Director

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

TO: Mr. Arnold Jablon, Director  
Zoning Administration and  
Development Management

DATE: March 22, 1993

FROM: J. Lawrence Pilsbury  
Development Coordinator, DEPRM

SUBJECT: Zoning Item #295  
Foulke Property, 3118 Whiteaway Road  
Zoning Advisory Committee Meeting of March 15, 1993

JLP:rmp

ZNG-295/DCRPM

The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine whether the proposed development is in compliance with the Chesapeake Bay Critical Area regulations. The applicant must submit a Critical Area Findings Plan for review and approval by this Department prior to preparation of a Critical Area Findings for the development. The applicant may contact the Environmental Impact Review Section at 887-3980 for details.

Plat to accompany Petition for Zoning ☒ Variance ☐ Special Hearing

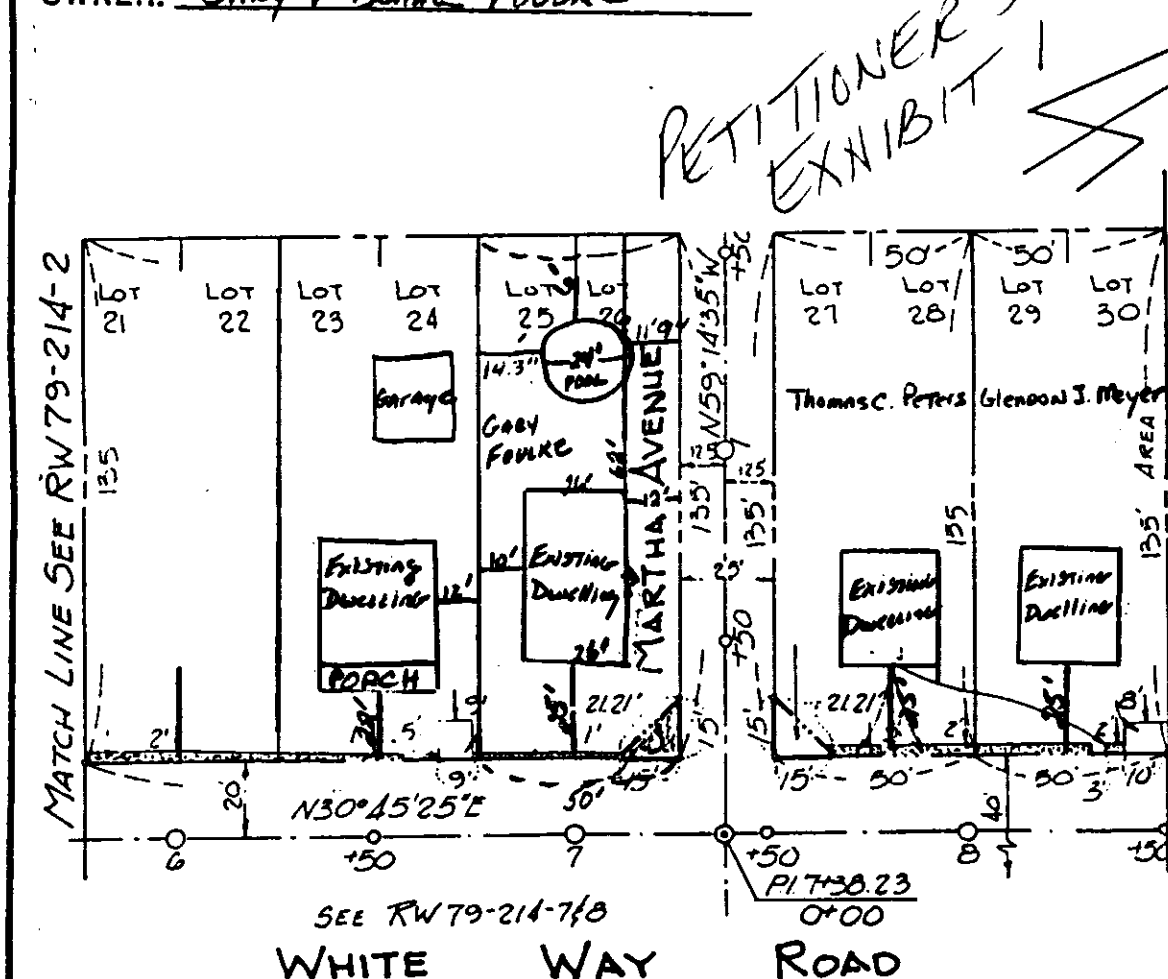
PROPERTY ADDRESS: 3118 Whiteaway Rd.

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Lynch Point

plat book: 8, folio 38, lot # 2526 section 4

OWNER: Gary & Donna Foulke



North  
date: 2/11/93  
prepared by: D. Foulke

Scale of Drawing: 1" = 50'

BDD707

see pages 5 & 6 of the CHECKLIST for additional required information

Subdivision name: Lynch Point

plat book: 8, folio 38, lot # 2526 section 4

OWNER: Gary & Donna Foulke

LOCATION INFORMATION

Election District: #15

Councilmanic District: #7

1"-200' scale map: SE5H

Zoning: DA, S.5

Lot size: 6,750 square feet

SEWER: ☒ WATER: ☒

Chesapeake Bay Critical Area: ☒

Prior Zoning Hearings: 87-41-A

AND 87-341-A

Zoning Office USE ONLY!

reviewed by: CAM

ITEM #: 295

CASE#: 295

SCALE

1" = 200' ±

DATE OF PHOTOGRAPHY

JANUARY 1986

LOCATION

NORTH POINT

EDGEEMERE

SHEET

SE

5-H

93-285-A

295